



The Nemours Building  
1007 North Orange Street  
P.O. Box 2207  
Wilmington, DE 19899  
TEL (302) 658 9141  
FAX (302) 658 5614

Jaclyn Mason  
Associate

TEL (302) 888-6433  
FAX (302) 255-4275  
EMAIL [jmason@cblh.com](mailto:jmason@cblh.com)  
REPLY TO Wilmington Office

1990 M Street, NW, Suite 800  
Washington DC 20036  
TEL (202) 331 7111  
FAX (202) 293 6229

Wells Fargo Center  
South Tower, Suite 3150  
355 South Grand Avenue  
Los Angeles CA 90071  
TEL (213) 787 2500  
FAX (213) 687 0498

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WEB [www.cblh.com](http://www.cblh.com)

**VIA CM/ECF AND HAND DELIVERY**

Honorable Kent A. Jordan  
J. Caleb Boggs Federal Building  
844 N. King Street  
Room 6325, Lockbox 10  
Wilmington, DE 19801

Re: *Cryovac, Inc. v. Pechiney Plastic Packaging, Inc., C.A. 04-1278-KAJ*

Dear Judge Jordan:

At the May 25, 2006 pre-trial hearing, Your Honor asked Pechiney about the timing of Mr. Spadt's opinion letter in relation to the ClearShield product modification. *See Transcript at p. 13* (copy attached).

As Your Honor requested, Pechiney's counsel contacted an associate in Chicago by telephone during the hearing to look into the question. Pechiney's counsel then confirmed that the first sale of any ClearShield product was in March 2004, nine months before Mr. Spadt's opinion letter. *See Transcript at p. 23* ("MR. PATRAS: ... I can tell you that the first sales of any ClearShield product were in March 2004. So the Spadt opinion letter is within nine months of there being any sale of any product.") (copy attached). Your Honor then stated that Pechiney would be allowed to put Mr. Spadt's opinion letters into evidence. *See Transcript at pp. 23-24* ("THE COURT: ...I'm going to let those things in and you can go after them hammer-and-tongs on cross, but... under these circumstances, the facts of this case, it's appropriate to allow the defense to put that in front of a jury.") (copy attached).

After Your Honor decided to allow the use of Mr. Spadt's opinion letters, Pechiney's counsel reported that, based on information provided by telephone from Chicago during the hearing, the first specification sheet showing the ClearShield product modification was dated October 22, 2004. *See Transcript at pp. 26-27* (copy attached).

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Upon counsel's return to Chicago after the hearing and after a more extensive review of the documents, the first *commercial* specifications of the modified ClearShield product were indeed dated October 22, 2004. See Product Specifications Z-9001, Z-9002, B-3200, B-3201, B-3300, B-3301. However, Pechiney made sales of some modified ClearShield products that were manufactured under *developmental* specifications dated before October 22, 2004. For example, *developmental* product specification DZ-9000 was dated February 9, 2004.

The first sale under any of these *developmental* specifications occurred in March 2004 and was of a film made under developmental specification DZ-9000. We hope this additional information satisfactorily answers Your Honor's question from the hearing.

Respectfully submitted,

*/s/ Jaclyn M. Mason*

Jaclyn M. Mason

Encl.

cc: Ford F. Farabow, Esq. (by e-mail w/ encl.)  
John W. Shaw, Esq. (by e-mail w/ encl.)  
N. Richard Powers, Esq. (by e-mail w/ encl.)  
Donald R. Cassling, Esq. (by e-mail w/ encl.)  
Patrick L. Patras, Esq. (by e-mail w/encl.)

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